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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,628	03/20/2006	Arnold Mattheus	2345/210	6988
26646 7590 06/23/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
TRAN, DZUNG D				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/530,628

**Applicant(s)**

MATTHEUS ET AL.

**Examiner**

Dzung D. Tran

**Art Unit**

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 23-27, 29-31 and 33-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Ido US 5,570,439.

Regarding claim 23, Ido discloses in Figure 6, a device for adjusting the chromatic dispersion in an optical transmission system, the device comprising an optical element having a temperature-dependent chromatic dispersion 6, the optical element disposed along an optical transmission path within a receiver 24; a device for measuring an ambient temperature of at least one section of the optical element to generate a measured value and a device for adjusting at least one of a temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element, the device adjusting in response to the measured value (see abstract, col.3, line 18 to col. 4, line 28).

3. Claims 23-27, 29-31 and 33-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimura US 5,793,917.

Regarding claim 23, Yoshimura discloses in Figure 3, a device for adjusting the chromatic dispersion in an optical transmission system, the device comprising an optical element 10 having a temperature-dependent chromatic dispersion, the optical element disposed along an optical transmission path within a receiver 1a; a device 11 for measuring an ambient temperature of at least one section of the optical element to generate a measured value and a device 13 for adjusting at least one of a temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element, the device adjusting in response to the measured value (see abstract, col.10, lines 17-46).

Regarding claim 24, Yoshimura discloses wherein the optical element includes a material that exhibits an essentially monotonic dependence of the chromatic dispersion upon its temperature (col. 10, lines 59-67).

Regarding claim 25, Yoshimura discloses wherein the optical element includes a material which exhibits a dispersion coefficient that has an inverted sign compared to the dispersion coefficient of the optical transmission system (col. 10, lines 47-52).

Regarding claim 26, Yoshimura discloses wherein the optical element includes an optical fiber and the optical fiber is a glass fiber (i.e., DCF 6; see Figure 8).

Regarding claim 27, Yoshimura discloses wherein the device for adjusting at least one of the temperature and the temperature distribution includes a temperature-control device (Figure 15, temperature control 52).

Regarding claim 29, Yoshimura discloses a chromatic dispersion monitor operative to measure chromatic dispersion (Figure 15, dispersion measure signal to control unit 55).

Regarding claim 30, Yoshimura discloses at least two optical elements having a temperature-dependent chromatic dispersion, which are assigned to separate inputs and outputs; and the device for adjusting at least one of a temperature or a temperature distribution operative to adjust a joint temperature or temperature distribution of at least one region of the at least two optical elements (see Figures 4, 14).

Regarding claim 31, Yoshimura discloses in Figure 3, an optical transmission system comprising:

- a transmitter 1b for transmitting an optical signal;

- a receiver 1a for receiving the optical signal from the transmitter, the transmitter coupled to the receiver via an optical element defining an optical path 10, wherein the optical element includes a temperature-dependent chromatic dispersion 6; and at least one device 13, disposed within the receiver, for adjusting the chromatic dispersion of the optical element, the device including: a device 11 for measuring an ambient temperature of at least one section of the optical element to generate a measured value; and a device 13 (i.e., temperature control unit) for adjusting at least one of a

temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element, the device adjusting in response to the measured value (see abstract, col.10, lines 17-46).

Regarding claim 33, Yoshimura discloses wherein the receiver includes: at least one device (Figure 15, dispersion measure signal to control unit 55) for measuring the chromatic dispersion.

Regarding claim 34, Yoshimura discloses the receiver further including: a temperature control device 13.

Regarding claim 35, Yoshimura discloses wherein the temperature-control device regulates the temperature as a function of a signal that corresponds to the measured value of the chromatic dispersion (see abstract, col.10, lines 17-46).

Regarding claim 36, Yoshimura discloses at least two devices for adjusting the chromatic dispersion of the optical transmission system that are disposed one after the other along the optical path being interconnected via an optical monitoring channel (see Figures 4, 14).

Regarding claim 37, Yoshimura discloses at least two devices for adjusting the chromatic dispersion of the optical transmission system that are disposed one after the other along the optical path being connected via an optical monitoring channel to a computer device for ascertaining the settings of the device (see Figures 4, 14).

Regarding claim 38, Yoshimura discloses in Figure 3, a method for adjusting the chromatic dispersion in an optical transmission system, the method comprising:

measuring an ambient temperature of at least one section of the optical element having a temperature-dependent chromatic dispersion, the optical element disposed along an optical transmission path within a receiver (i.e., by temperature collecting unit 11);

generating a measured value based on the measured ambient temperature and adjusting, in response to the measured value, at least one of a temperature and a temperature distribution of at least one region of the optical element for providing a predefined chromatic dispersion of the optical element (see abstract, col.10, lines 17-46).

Regarding claim 39, Yoshimura discloses wherein the chromatic dispersion in the optical transmission system is measured and at least one of the temperature and the temperature distribution is adjusted as a function of the measurement (see abstract, col.10, lines 17-46).

Regarding claim 40, Yoshimura discloses wherein the chromatic dispersion in the optical transmission system is ascertained by measuring the temperature at least one location in the optical transmission system (see abstract, col.10, lines 17-46).

Regarding claim 41, Yoshimura discloses wherein the step of adjusting further comprises: compensating for the chromatic dispersion in the optical transmission system (by dispersion compensating fiber 6).

Regarding claim 42, Yoshimura discloses wherein the adjusting the at least one of a temperature and a temperature distribution of the optical element is as a function of the adjustment of at least one further element having a temperature-dependent

chromatic dispersion in the optical transmission system (by temperature control unit 13).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimura US 5,793,917 in view of Danziger US 2002/0006257.

Regarding claim 28, Yoshimura does not specifically disclose wherein the temperature-control device includes a thermostat device. However, using a thermostat device for monitoring the temperature is well known in the art as shown in Danziger, Figure 4a, element 170 for measuring the temperature (paragraph 0050). At the time of the invention was made, it would have been obvious to one of ordinary skill in the art to include the well known thermostat device in the chromatic dispersion compensation device of Yoshimura. One of ordinary skill in the art would have been motivated to do that in order to measure the temperature of the chromatic dispersion compensation element.

6. Claims 32 and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimura US 5,793,917 in view of Sasaki US 6,771,904.



Regarding claims 32 and 43-44, Yoshimura does not specifically disclose a device for feeding a test signal for measuring the chromatic dispersion or at least one section of the optical transmission system by feeding and evaluating a test signal. However, modulating the test signal and sending the test signal from the transmission site is well known in the art as shown in Figure 1 of Sasaki. At the time of the invention was made, it would have been obvious to one of ordinary skill in the art to implement the test signal generator in the transmitter of Sasaoka. One of ordinary skill in the art would have been motivated to do that in order to send the test signal over the system for adjusting the temperature of the chromatic dispersion compensation element.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims 23-44 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung D Tran whose telephone number is (571) 272-3025. The examiner can normally be reached on 9:00 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vanderpuye Kenneth, can be reached on (571) 272-3078. The fax phone

number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzung Tran

06/20/2009

/Dzung D Tran/

Primary Examiner, Art Unit 2613